



Office of the President

December 12, 2007

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Prohibition on Funding of Unlawful
Internet Gambling

Dear Ms. Johnson:

Navy Federal Credit Union provides the following comments in response to the Federal Reserve System and Department of Treasury's (Agencies) proposal to implement the Unlawful Internet Gambling Enforcement Act of 2006. Navy Federal is the world's largest natural person credit union with more than \$30 billion in assets and nearly 3 million members.

Navy Federal believes the proposed regulation inappropriately implements the Act and unnecessarily escalates public burden far above the estimate provided in the Supplementary Information of the *Federal Register*. The statutory language focuses on payment systems (ACH, Fedwire, credit/debit card systems, etc.) for enforcement of the Act while the proposed regulation shifts the brunt of investigative and enforcement activities to the participants (financial institutions and others) in payment systems. Surprisingly, the regulatory proposal actually exempts certain large payment system operators from the Act's requirements, effectively compounding the burden on the payment systems participants, i.e., financial institutions and others.

We believe the most efficient and effective way to implement the Act is to give each payment system the lead role in developing policies and procedures that would be applicable to the payment system and its participants. For example, it seems irresponsible to require 18,000 depository institutions to individually research numerous complex state and federal laws as a prerequisite to developing individual institution policies and procedures when those of the payment systems would suffice. We strongly recommend that the Agencies withdraw sections __.4, __.5, and __.6 of the proposed regulation and craft a new proposal that places only modest burden on a few payment systems rather than continue with the current proposal that severely burdens financial institutions including thousands of small and moderate-size credit unions and banks.

The proposed rule presents many unworkable challenges to financial institutions. For instance, the proposed rule mandates that participants in payment systems (i.e., credit unions and banks) develop policies and procedures to determine the nature of business of accountholders by soliciting information from those opening accounts. While some businesses may honestly report themselves to be gambling entities, others would undoubtedly misrepresent their operations to circumvent the law. Financial institutions would be unable to make use of the inaccurate information to carry out the intent of the Act. Even when it can be concluded that a company engages in restricted transactions, there is nothing to prevent the companies from closing and then reopening under a different name. We believe reliance on information from sources involved in illegal activities would provide little solid evidence to assist with enforcement of the Act.

In many cases, financial institutions cannot determine the location of individuals when they place bets and wagers for Internet gambling transactions, but knowledge of both the location of the gambling business and the gambling customer are key for determining the legality of the transaction. A transaction that may be legal for one individual (an *intrastate* gambling transaction) may be prohibited when that individual crosses a state line in the same metropolitan area (an unlawful *interstate* gambling transaction) simply due to his or her location at the time of the transaction. In the absence of an ability to determine where a person conducts a transaction, it is impossible to develop effective policies and procedures to address those gambling transactions prohibited by law.

The Agencies request comment on the creation of a list of unlawful Internet gambling businesses similar to OFAC's SDN list. We agree with the Agencies' opinion that such a list would be difficult to keep updated, valid, and comprehensive. However, at the same time, we wish to highlight the inconsistent rationale the Agencies employ by recognizing the difficulty in identifying illegitimate transactions and companies when it relates to the government compiling a list, while expecting financial institutions with very limited resources to determine the legitimacy of millions of transactions in much more difficult circumstances.

Increasingly, financial institutions are called upon to investigate and enforce laws and regulations – a function traditionally and appropriately guided by enforcement professionals. While we believe reasonable and professionally-guided involvement of the private sector to support and promote lawful commercial activity is sound public policy, most financial institutions simply do not have the resources, knowledge, or abilities to individually develop effective policies and procedures to investigate and enforce the vast body of complex federal and state gambling law. The agencies should provide professionally developed and practical guidance for private sector involvement in Internet gambling detection and enforcement to include procedures for effective due diligence and transaction monitoring.

Ms. Jennifer J. Johnson
Page 3
December 12, 2007

We believe that the Agencies are grossly underestimating the public burden involved in implementing the proposed rule. Placing the burden of developing policies and procedures on the various payment systems would greatly decrease the public burden of implementing the Act. The proposed rule is scheduled to take effect six months after being published as a final rule. We ask the Agencies to extend the compliance effective date to at least one year from publication of a final rule to permit the payment systems and their participants the necessary time to develop and implement the complex policies and procedures necessary to comply with the rule.

We appreciate the opportunity to provide comments in response to the Agencies' proposal on unlawful Internet gambling. If you have any questions, please contact Patrick Caldwell, Policy Analyst, at (703) 206-4161.

Sincerely,


Cutler Dawson
President/CEO

CD/pc